

HORIZONTAL QUESTIONNAIRE

Environmental liability Directive

Legal reference

Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (*OJ L 143 30.04.2004 p. 56*) EUR-Lex hyperlink: [html](#) [pdf](#)

A- Which parts of the Directive have been transposed?

The Article 56 of the Constitution of the Turkish Republic sets out the provisions which can be considered as the basis of the protection of the environment. On the other hand, the Article 125 of the Constitution of the Turkish Republic states that all the actions and procedures of the administrative authorities are subject to access to justice.

Articles 3/g, 15, 28, 30 of the Law on Environment No.2872 (Official Gazette: 11 August 1983, no 18132) as amended by the Law No.5491 (Official Gazette: 13 May 2006, no 26167), address environmental liability. According to the Article 28 of the Law, polluters of the environment and those who cause damage to the environment are responsible for the damage arising from the pollution and destruction they cause without taking into account fault exists.

In addition, there are general provisions in the Law of Obligations No. 818 (Official Gazette: 29 April 1926, no 359), (Article 41, 50).

There are also provisions in the Law No. 5312 on Response to Emergencies and Compensation of Losses in Case of Pollution of the Marine Environment from Oil and Other Harmful Substances (Official Gazette: 11 March 2005, no 25752).

B- When is transposition foreseen for the remaining measures?

Technical studies need to be initiated.

C-What have been achieved as regards;

- **Identifying competent authority/ies**

The Ministry of Environment and Forestry is entitled as the competent authority according to the Law No.4856 on Establishment and Duties of Ministry of Environment and Forestry (Official Gazette: 08 May 2003 no 25102). In addition, according to the Article 3/g of the Law on Environment No.2872, the public institutions which have the capacity and technical equipment so as to prevent, eliminate or reduce the pollution are also authorized. The other relevant public authorities are authorized according to the provisions in the relevant organizational laws.

According to Article 4 of the Law No.5312, it is stated that for the purposes of implementation of this Law, the Ministry of Environment and Forestry has the overall coordination duty. The institutions and organizations authorized by this Law, are obliged to

notify the Ministry of Environment and Forestry of the information obtained and operations undertaken without delay.

Duties and responsibilities regarding drawing up of emergency response plans, implementation of emergency response plans in coastal areas, determination of the type and effects of pollution, determination of adverse effects to the environment and rehabilitation of areas affected from pollution after the incident are vested in the Ministry of Environment and Forestry. Duties and responsibilities regarding implementation of emergency response plans for prevention of marine pollution stemming from sea craft, preparedness, response to pollution, compensation of losses and notification of liability guarantees are vested in the Undersecretariat for Maritime Affairs.

According to the Article 10 of the Law No.5312, it is stated that a loss adjustment commission would be set up. The amount of loss adjusted as such is valid after approval by the commission.

According to the Article 15 of the Law No.5312, it is stated that the authority to respond to pollution or pollution threat caused as a result of the incident is vested in the Undersecretariat for Maritime Affairs. The Undersecretariat for Maritime Affairs may have this duty performed by other public institutions, organizations and companies operating in this field or established for this purpose, which are based in Turkey. These duties can be exercised by the Ministry of Environment and Forestry when necessary.

- **Taking measures to ensure the CA recovers costs (Art.8.2)**

According to the Article 3/g of Law on Environment No. 2872, the expenditures required for preventing, limiting, eliminating pollution and degradation and recovering the environment should be met by the polluter. When the polluter fails to take necessary measures to stop, eliminate or reduce pollution or degradation, or if such measures have to be taken directly by the competent authorities, the expenditures required to be made by public sector companies or corporations will be recovered from the polluter according to the Law on Concerning Procedure for The Collection of the Public Revenue No. 6183 (Official Gazette: 28 July 1953, no 8469).

- **Taking measures to enable the operator to recover costs under some circumstances (Art. 8.3)**

There is no specific provision in the environmental legislation regarding this issue.

- **Deciding whether the operator shall be allowed not to bear costs in some circumstances (Art. 8.4)**

There is no specific provision in the environmental legislation regarding this issue. However, there are general provisions in the Law of Obligations No. 818.

- **Determining the basis for natural and legal persons right to request for action and Access to review (Arts 12 and 13)**

According to the first paragraph of the Article 30 of the Law on Environment No.2872, it is stated that everyone that suffer from or aware of any activity which pollutes or harms the

environment, may request the necessary measures to be taken or that activity to be stopped by applying to the relevant competent authorities.

According to the Article 10 of the Law No. 2577 on the Procedure of Administrative Justice (Official Gazette: 20 January 1982 no 17580), the persons concerned may request the administrative authorities to implement an act or take an action that may be the subject of a lawsuit.

According to the Article 11 of the Law No. 2577 on the Procedure of Administrative Justice, before bringing an action, the person concerned may request the abolishment, withdrawal, alteration of the administrative act or the implementation of a new act from the superior authority, if there is no superior authority, from the authority that implements the Law.

In addition, according to the Article 13 of the Law No. 2577 on the Procedure of Administrative Justice, the persons whose rights have been violated by an administrative action must apply to the relevant administration for the rectification of the situation, before bringing a lawsuit. A suit may be brought if the application is wholly or partly refused.

On the other hand, according to the Article 2 of the Law No. 2577 on the Procedure of Administrative Justice, the types of lawsuits against the administration are arranged. The Article 2a of the Law states action for annulment and the Article 2b of the Law states administrative action.

In this scope, natural and legal persons have right to access to a court so as to have the procedural and legality of the acts reviewed or failure of the competent authority to act.

Non-governmental organizations have also right to access to justice.

- **Establishing a review procedure (Art. 13)**

According to the Article 125 of Constitution of the Turkish Republic, all the actions and procedures of the administrative authorities are subject to access to justice. In this scope and according to the Articles 2a, b, 12, 13 of the Law No. 2577 on the Procedure of Administrative Justice, interested parties have access to a court to review the procedures and acts of the administrative authorities.

- **Taking measures to encourage the development of financial security instruments and markets (Art. 14)**

According to the Articles 8 and 9 of the Law No. 5312 on Response to Emergencies and Compensation of Losses in Case of Pollution of the Marine Environment from Oil and Other Harmful Substances, financial liability guarantees are envisaged for the marine pollution specifically.

According to the Article 13 of the Law on Environment no 2872, there is a provision about financial liability guarantee especially to compensate the damages that will occur as a result of an accident and affect the third persons arising from Dangerous Chemicals and Waste.

- **Taking measures to ensure co-operation between MS's (Art. 15)**

Not applicable before membership.

- **Extending the scope of the Directive, under Article 2(3)(c) ELD, to natural habitats and species not covered by the Birds and Habitats Directives?**

There is no specific distinction, the legislation applies to all categories.

- **Ensuring that the duty of the operator to inform the competent authority, in the event of an imminent threat of damage, goes beyond the minimum requirements under Article 5(2) ELD (that is, when the imminent threat is not dispelled by the preventive measures taken by the operator)?**

According to the Article 13 of the Law No. 5312 on Response to Emergencies and Compensation of Losses in Case of Pollution of the Marine Environment from Oil and Other Harmful Substances, everyone who is a party to the incident, who sees, hears the incident or who has knowledge of the incident is obliged to notify the pollution or threat of pollution to the relevant authority or emergency response teams.

- **Are there cases under national law in which the competent authorities are not only entitled but actually required to take itself the appropriate preventive and/or remedial measures (see Articles 5(4) and 6(3) ELD)?**

According to the Article 3/g of the Law on Environment No. 2872, when the polluter fails to take necessary measures to stop, eliminate or reduce pollution or degradation, the competent authority takes the appropriate measures or there can be such conditions that such measures have to be taken directly by the competent authorities.

In the second paragraph of the Article 15 of the Law on Environment No. 2872, it is stated that the activities of the parties that fail to meet the requirements stipulated by law or by-laws that published according to this law shall be terminated temporarily or permanently and either partially or completely. The activities that pose threat to the environment and public health are stopped without granting a period of time.

In addition, according to the Article 11 of the Law No. 5312, it is stated that, in case the polluter cannot be identified, the Undersecretariat for Maritime Affairs responds to the pollution.

According to the Article 15 of the Law No. 5312, it is stated that the authority to respond to pollution or pollution threat caused as a result of the incident is vested in the Undersecretariat for Maritime Affairs. The Undersecretariat may have this duty performed by other public institutions and organisations and companies operating in this field or established for this purpose which are based in Turkey. These duties can be exercised by the Ministry of the Environment and Forestry when necessary.

- **Which measures have been taken to decide how liability will apply in the event of multiple party causation (damage caused by several operators) under Article 9 ELD?**

According to the Article 50 of the Law of Obligations No. 818, in the event of multiple party involvement, joint liability is adopted.

In addition, according to the Article 6 of the Law No. 5312, joint liability is adopted.

- **Are or will there be any measures under national law that are stricter than those required by the Directive, which your State would like to maintain or adopt in the light of Article 16(1) ELD?**

Technical studies need to be initiated.

ACCESS TO ENVIRONMENTAL INFORMATION DIRECTIVE

Legal reference

Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (Official Journal L 041, 14/02/2003 P. 0026 – 0032)

A. Which Parts of The Provisions of The Directive Have Been Transposed?

Article 74 of the Constitution states that “Citizens and foreigners resident considering the principle of reciprocity have the right to apply in writing to the competent authorities and to the Turkish Grand National Assembly with regard to the requests and complaints concerning themselves or the public.

The result of the application concerning himself shall be made known to the petitioner in writing without delay.”

The Law No.4778 on the Use of the Right of Petition regulates the type of usage of right of application in written form to Turkish Grand National Assembly and competent authorities on their wishes and complaints related with themselves or public.

The Law No.4982 on the Right of Access to Information (Official Gazette: 24.10.2003), as amended by the Law No.5432 (Official Gazette: 22.11.2005) and the By-law on Rules and Procedures for the Implementation of the Law on Right of Access to Information (Official Gazette: 27 April 2004, no 25445) are other main legislation regarding access to information.

Article 2 of the Law on the Right of Access to Information on the Right to Information states that the Law is applied to the activities of the public institutions and the professional organizations qualified as public institutions.

The Article 3 of the the Law on the Right of Access to Information states the definitions of applicant, public authority, information, document, access to information or document. Article 14 defines the Board of Review of the Access to Information.

Article 2 of the Law No.2872 on Environment (Official Gazette: 11 August 1983, no 18132) as amended by the Law No.5491 (Official Gazette: 13 May 2006, no 26167) defines the environmental information.

According to Article 5 of the Law on the Right of Access to Information, public authorities are obliged to present for the use of the applicants all information or documents with the exception of those set out in this Law, and take the necessary administrative and technical measures for the purpose of concluding the applications for accessing information in a quick and correct manner.

According to the Article 11 of the Law on the Right of Access to Information, public authorities shall provide the required information within 15 working days. However, where the required information or document is to be obtained from another department within the

same authority or if it is in the scope of more than one authority; the requested information is provided in 30 working days.

According to the Article 15 of the By-law on Rules and Procedures for the Implementation of the Law on the Right of Access to Information, staff of the public information units have to assist the applicants.

According to Article 8 of the Law on the Right of Access to Information, information or documents published by public authorities, or disclosed to public by means of publications, brochures, announcements or similar ways cannot be subject to an application to access information. However, the applicant shall be informed about when and where the information or documents were published or disclosed to the public.

Article 10 of the Law on the Right of Access to Information states that the public authorities shall provide the applicant with an approved copy of the requested document.

Article 12 of the Law on the Right of Access to Information states that public authorities shall notify the applicant concerning their response to the applications to access information in writing or in an electronic environment. In the event that the application is rejected, the reason for and the means of applying against such decision, are stated.

According to Article 7 of the By-law on Rules and Procedures for the Implementation of the Law on the Right of Access to Information, public authorities may provide the following information on their website;

- a) Documents and information on organization, duties, budget, income and expenditure,
- b) Information on the number of employees and positions,
- c) Information on the given services,
- d) Information on the decision making, servicing, generating policies,
- e) Basic information, data, justifications and evaluations used for decisions which will affect the public,
- f) Information explaining the records, filing, archiving,
- g) Procedures of the complaints and applications and the department or person that the complaints or applications will be given,
- h) Statistical data, surveys reports, and other documents.

Articles from 15 to 28 of the Law on the Right of Access to Information define limitations to the right of access to information.

Article 30 of the Law on Environment states that the public authority may refuse the application if disclosure of the information would adversely affect environmental values such as location of rare species or breeding areas.

Article 10 of Law on the Right of Access to Information states that public authorities may demand a fee from the applicant.

Article 13 of Law on the Right of Access to Information regulates right of objection of the applicant to the Board of Review of the Access to Information and to the justice.

B. When is transposition foreseen for the remaining measures?

Technical studies need to be initiated.

C. What have been achieved as regards:

1. Defining the practical arrangements under which environmental information is made available to the public

In the context of Law on the Right of Access to Information and the By-law on Rules and Procedures for the Implementation of the Law on Right of Access to Information, information units are formed and the implementation of the Law is conducted via these units or the persons that are determined by the institutions. Similar to other institutions, the Ministry of Environment and Forestry also established the Information Unit in April 2004.

Cabinet Decree on e-Government (Official Gazette: 29.01.2005; No: 25711) ensures building up technical infrastructure of e-Government portal.

2. Defining the applicable exceptions

Articles from 15 to 28 of the Law on the Right of Access to Information define limitations to the right of access to information.

Article 30 of the Law on Environment states that the public authority may refuse the application if disclosure of the information would adversely affect environmental values such as location of rare species or breeding areas.

The context of the restrictions given in the Law in general form is made clear with the decisions of the Board of Review of Access to Information. Additionally, technical studies are in progress to determine the criteria regarding the limitations listed in the Law on the Right of Access to Information.

3. Ensuring that public authorities make environmental information available to the public

According to the Article 4 of the Law on Right of Access to Information, everybody has the right to access information. Foreigners residing in Turkey and foreign legal entities operating in Turkey shall benefit from the provisions of this Law, provided that the information they will request is relevant to them or their field of activity, and their request for information is within the framework of the principle of reciprocity. Rights and obligations of Turkey arising from the international agreements to which it is a party is reserved.

Article 2 of the Law No.2872 on Environment (Official Gazette: 11 August 1983, no 18132) as amended by the Law No.5491 (Official Gazette: 13 May 2006, no 26167) defines the environmental information, while Article 30 of the Law refers to the Law on Right of Access to Information.

4. Establishing procedures for review of a decision not to supply environmental information

If the information request is refused, the reasons and the objection mechanism against the decision are notified to the applicant.

Every action and transaction of the administration is subject to judicial review as guaranteed by the Constitution.

In this context, applicant whose request is refused has right to file a case before administrative court against this refusal decision.

The Law on the Right of Access to Information has set up an independent body (Board of Review of the Access to Information) so as to respond to the objections in a shorter time and without prejudicing the right to file case.

5. Deciding whether to make a reasonable charge for supplying environmental information

Article 22 of By-law on Access to Information states that charge list will be published by the Ministry of Finance and first 10 pages will be free of charge. Charges for providing information is determined according to the General Communique on Access to Information (Official Gazette: 14.02.2006), published by the Ministry of Finance.

6. Establishing a system to disseminate environmental information to the public

Article 6 of the By-law on Access to Information states that public institutions make available to the public the information on the following subjects using information technologies

- information they have and their filing systems
- decisions, projects, annual activity reports
- related legislation (laws, regulations, etc.)

Public authorities have to reorganize their web sites and e-mail system accordingly.

According to Article 7 of the By-law on Rules and Procedures for the Implementation of the Law on the Right of Access to Information, public authorities may provide the following information on their website;

- Documents and information on organization, duties, budget, income and expenditure,
- Information on the number of employees and positions,
- Information on the given services,
- Information on the decision making, servicing, generating policies,
- Basic information, data, justifications and evaluations used for decisions which will affect the public,
- Information explaining the records, filing, archiving,
- Procedures of the complaints and applications and the department or person that the complaints or applications will be given,
- Statistical data, surveys reports, and other documents.

Additionally, an Environmental Information System is established in the context of “Institutional Building and Access to Environmental Information” funded under the EU 2002 Financial Programme. The project was initiated to address the pressing issues and to support the Government in its efforts to develop an effective mechanism for the Exchange of Environmental Information between and among Government Institutions, Civil Society, the private sector and International Community.

Reports on State of Environment at provincial level are prepared by the Ministry of Environment and Forestry since 1993. Reports on State of Environment at national level were prepared and published in 1996 and 2004. The reports are available on the web page of Ministry of Environment and Forestry (www.cedgm.gov.tr/icd-raporlari/cevredurum.htm)

7. Establishing measures for quality assurance of information

Technical studies are in progress.

Public participation Directive

Legal reference

Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC – Statement by the Commission (*OJ L 156 25.06.2003 p.17*) EUR-Lex hyperlink: [html](#) [pdf](#)

A. Which parts of the provisions of the Directive have been transposed?

The following provision is placed under the Article 3 of the Law on Environment No.2872 (Official Gazette: 11 August 1983, no 18132) as amended by the Law No.5491 (Official Gazette: 13 May 2006, no 26167) in subparagraph (e) where the general principles are listed for the purposes of environmental protection, improvement and prevention of pollution: “In forming environmental policies, right of participation is the fundamental principle. Ministry and local authorities are responsible for providing a participation environment to chambers of professions, unions, non-governmental organisations and citizens, in which they will use their environmental right.”

Pursuant to the Articles 4 and 5 of the Law on Environment No.2872 (Official Gazette: 11 August 1983, no 18132) as amended by the Law No.5491 (Official Gazette: 13 May 2006, no 26167), the formation of “Supreme Council of Environment” and its studies are regulated. According to the agenda for the meetings of the Council, union representatives of the institutions which are described as public authorities, chambers of professions, non-governmental organisations, representatives of local authorities, representatives of universities and scientific institutions are invited. The tasks of the Council are regulated in the Article 5 of the Law as follows:

- “a) To determine objectives, policies and strategies to ensure an effective environmental management,
- b) In the framework of sustainable development principle, to determine legal and administrative measures including environmental concerns into economical decisions,
- c) To give the final decision in conflicts related to the environment in which more than one ministry and institution are involved.”

Participation of public to the Environmental Impact Assessment Procedure is provided in the context of By- law on Environmental Impact Assessment (Official Gazette: 16 December 2003, no 25318).

Every person, whose interest is affected, prior to recourse to judiciary, could apply to superior authority for review of the decision. If there is no superior authority, the applicant could apply to the same administrative body which takes the decision within 60 days after the notification of the administrative decision to himself/herself under the article 11 of Law No. 2577 on the Procedure of Administrative Justice (Official Gazette: 20 January 1982 no 17580). The person, whose interest is affected, could recourse to administrative judiciary in case of refusal of this request. It is obligatory that applicant shall follow this application procedure prior to recourse to administrative judiciary if this application procedure is set out in the specific law to which the administrative institution concerned is subject. If such an application procedure

is not set out in specific law, the person, whose interest is affected, could recourse to administrative institution for review of the decision as mentioned above as well as he/she could recourse directly to administrative judiciary within 60 days after notification of the decision to himself/herself under the article 7 of the Law No. 2577 on the Procedure of Administrative Justice. Administrative judiciary examines the substantive or procedural legality of the administrative decision.

Case-law of the Council of State of the Republic of Turkey sets out that “criterion of the affected interest” means legal, current and individual interest. Council of State of the Republic of Turkey interprets this criterion in a broader sense as far as possible on the ground that issues such as environment closely concern the public. If the court rules that applicants’ interest is not affected, it dismisses the case in terms of competency.

As far as administrative act is concerned, it is obligatory that the person, whose right is violated by administrative act, shall request administrative body concerned to fulfill his/her right within 1 year after notification or notifying of the act under the article 13 of the Law No. 2577 on the Procedure of Administrative Justice. In case of whole or partial refusal of this request or no response to this request, applicant could recourse to administrative judiciary. Compared to “criterion of affected interest”, Council of State the Republic of Turkey interprets “the criterion of the violated right” in a restrictive manner.

The person mentioned above includes both natural and legal persons. In this context, non-governmental organizations have right to recourse.

B. When is transposition foreseen for the remaining measures?

Technical studies need to be initiated.

C. What have been achieved as regards:

- **Identifying the relevant Competent Authorities (Art. 2.2)**

Technical studies need to be initiated.

- **Defining the ‘public’ (Art. 2.1 and 2.3)**

Technical studies need to be initiated.

- **Establishing a mechanism for providing the public with information (Art. 2.2a and 2.2d)**

Technical studies need to be initiated.

- **Establishing a mechanism for public consultation (Art. 2.2b and 2.3)**

Technical studies need to be initiated.

- **Establishing a mechanism for public comments and opinions to be taken into account in the decision-making process (Art. 2.2c)**

Technical studies need to be initiated.

Environmental Impact Assessment Directive

Legal reference

Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (*OJ L 175, 05.07.1985, p.40*) as amended. - EUR-Lex hyperlink:html

A. Which parts of the provisions of the Directive have been transposed?

The By-law on Environmental Impact Assessment (BEIA) entered into force on 7 February 1993 and has been revised three times since then. The last BEIA (Official Gazette: 16 December 2003, no 25318) is the main national legislation regarding the assessment of the effects of public and private projects on the environment. The following articles of the BEIA are in compliance with the provisions of the Directive substantially, particularly in its procedural aspects.

Article 4 of the By-law includes the definitions and abbreviations of Ministry, environment, impact, impact area, project, environmental impact assessment (EIA), environmental impact assessment process, owner of the project, general format for introducing project, EIA report special format, commission and EIA positive decision and so on.

Article 5 of the BEIA states that the competent authority is the Ministry of Environment and Forestry which may, if necessary, transfer its authority to Governorships.

Article 6 of the BEIA states that the public institutions and organizations are obliged to provide all sorts of information, documentation and opinion, which may be requested by project owners during the process of executing the provisions of the BEIA.

Article 24 of the BEIA states that environmental impact assessment applications related with military projects are determined by the Ministry of Environment and Forestry, in consultation with the relevant authorities.

Provisional Articles 3 and 4 of the BEIA regulate the exceptions.

The Article 7 of the BEIA states that it is mandatory to prepare an Environmental Impact Assessment Report for all projects which are listed in Annex I and those projects listed in Annex II for which a decision is taken as “Environmental Impact Assessment is required.”

Chapter 3 of the BEIA, including the Articles from 7 to 14, lays down the Environmental Impact Assessment procedure for the projects listed in Annex I.

The provisions of Chapter 3 state that public, NGO's and relevant governmental institutions and organizations are informed at the earliest stage by publishing the application file on the Internet when the owner of the project submit an application for EIA acceptance to the Ministry of Environment and Forestry. Then Scoping and Assessment Commission is established and the date and place of the Public Participation and Scoping Meetings are

determined. The announcements of these meetings are also made available on the web page of the Ministry of Environment and Forestry. The owner of the project makes an announcement stating the date, time, place and subject of the meeting to be published in a national and local newspaper and may conduct public survey.

Article 8 of the BEIA regulates the application process and procedures, general format for introducing project and formation of Scoping and Assessment Commission.

Articles 9, 11 and 14 of the BEIA regulate public participation process.

The Law No.4982 on the Right of Access to Information (Official Gazette: 24 October 2003, no 25269) provides general provisions on the right of access to information, including environmental information.

Article 10 of the BEIA states procedures for scoping in order to identify special format for the project under consideration.

Article 12 regulates the rules and procedures for the Scoping and Assessment Commission. Article 27 states that the Commission can only assess those EIA documents prepared by certified competent firms and organizations.

Article 14 defines the authority of the Ministry of Environment and Forestry to make a decision on the application.

Articles 15 and 16 of the BEIA regulate implementation criteria for selection and screening of the projects listed in Annex II of the BEIA.

Article 17 defines the authority of the Ministry of Environment and Forestry to make a decision on whether EIA is required or not. The public is informed about the decision.

Article 18 defines monitoring and control mechanism for investments both for Annex I and II projects.

Article 125 of the Constitution of the Turkish Republic, the Law No.2872 on Environment (Official Gazette: 11 August 1983, no 18132) and the Law No.2577 on Procedure of Administrative Judgement (Official Gazette: 20 January 1982, no 17580) state that the public has the right to go to the court for all actions of the administration, including EIA decisions given by the Ministry of Environment and Forestry.

The list of projects subject to EIA is given as Annex I of the BEIA.

The list of projects subject to selection and screening criteria is given as Annex II of the BEIA.

The General Format for Introducing a Project is given as Annex III of the BEIA.

The selection and screening criteria for the preparation of project introduction file are given as Annex IV of the BEIA.

The list of the sensitive areas which are protected in accordance with our national legislation is given as Annex V of the BEIA.

B. WHEN IS TRANSPOSITION FORESEEN FOR THE REMAINING MEASURES?

Technical studies are in progress.

C. WHAT HAVE BEEN ACHIEVED AS REGARDS?

- **Designating the competent authority / ies. (Art. 1.3)**

Article 5 of the BEIA states that the competent authority is the Ministry of Environment and Forestry.

- **Designating the concerned environmental authority / ies. (Art. 6.1)**

Concerned environmental authorities are determined by the Ministry of Environment and Forestry according to Article 8 of the BEIA, based on location and type of the project under consideration.

- **Requiring Annex I projects to be subject to EIA. (Art. 4.1)**

The Article 7 of the BEIA states that it is mandatory to prepare an Environmental Impact Assessment Report for all projects which are listed in Annex I.

- **Establishing a procedure to decide which Annex II projects require EIA. (Art. 4.2)**

The procedure to decide which Annex II projects require EIA is defined in Articles 15, 16 and 17 of the BEIA.

- **Determining the scope of the information to be provided by the developer. (Art.5)**

Procedures for determining the scope of the information to be provided by the project owner is defined in Articles from 7 to 14 of the BEIA.

- **Establishing a procedure for consultation with environmental authorities. (Art.6.2)**

Article 12 of the BEIA establishes a procedure for consultation with environmental authorities.

- **Establishing a public consultation procedure (Art. 6.2)**

Articles 9 and 11 of the BEIA lay down the detailed arrangements for the public consultation procedure.

- **Establishing arrangements with neighbouring Member States for exchange of information and consultation (Art. 7)**

Technical studies need to be initiated.

- **Requiring the environmental information and the results of consultations to be taken into account in the development consent procedure (Art. 8)**

Articles from 8 to 12 of the BEIA ensure that the Ministry of Environment and Forestry takes into account the results of consultations in its decisions.

- **Establishing measures for notifying the public of the outcome of decisions on applications for development consent (Art. 9)**

Articles 9, 14 and 17 of the BEIA include these measures.

- **Implementing the amendments introduced by Directive 2003/35/EC**

Technical studies need to be initiated.

Strategic Environmental Assessment Directive

Legal reference

Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (*OJ L 197 21.07.2001 p. 30*) EUR-Lex hyperlink: [html](#) [pdf](#)

A. Which parts of the provisions of the Directive have been transposed?

Technical studies are in progress.

B. When is transposition foreseen for the remaining measures?

Technical studies are in progress.

C. What have been achieved as regards:

- **Drafting necessary transposing legislation**

Technical studies on preparing a Turkish Strategic Environmental Assessment By-law are in progress.

The Article 2, paragraph (g) of the Law on Establishment and Duties of Ministry of Environment and Forestry No. 4856 (Official Gazette: 08 May 2003, no 25102) states that the Ministry is responsible for defining procedures, implementing, controlling quality and monitoring implementation of Strategic Environmental Assessment.

According to Article 10 of the Law on Environment No.2872 (Official Gazette: 11 August 1983, no 18132) as amended by the Law No.5491 (Official Gazette: 13 May 2006, no 26167), the Ministry of Environment and Forestry will prepare the By-law which will set out the plans and programs that are subject to Strategic Environmental Assessment, and the relevant procedures. The Law defines Strategic Environmental Assessment in Article 2.

Under the Dutch MATRA Programme, a pilot project namely, “Preparing and Implementing a Draft By-Law on Strategic Environmental Assessment for Turkey” has been carried out within the period of 2003 and 2004.

After finishing this pilot project and taking into account its outputs, the technical studies about the preparation of the Strategic Environmental Assessment By-law for Turkey were started. The studies are at the stage of consultation with relevant institutions.

- **Identifying implementing authorities**

The Ministry of Environment and Forestry is the implementing authority.

- **Designating the concerned environmental authority/ies (Art. 6.3)**

Technical studies are in progress.

- **Requiring plans or programmes for which SEA is mandatory under Art. 3.2 to be subject to SEA (Art. 3.2)**

Technical studies are in progress.

- **Establishing a procedure to decide which plans or programmes require SEA (Arts. 3.3 and 3.4)**

Technical studies are in progress.

- **Establishing a procedure to ensure information is made available to the public (Arts. 6.1& 9)**

Technical studies are in progress.

- **Establishing a procedure for consultation with environmental authorities (Art. 6.2)**

Technical studies are in progress.

- **Establishing a public consultation procedure (Art. 6.2)**

Technical studies are in progress.

- **Establishing arrangements with neighbouring Member States for exchange of information and consultation (Art. 7)**

Not applicable before membership.

- **Requiring the environmental report and the results of consultations to be taken into account in the decision making procedure (Art. 8)**

Technical studies are in progress.

- **Establishing measures to ensure that environmental reports are of a sufficient quality to meet the requirements of the Directive (Art. 9)**

Technical studies are in progress.

- **Ensuring that the implementation of plans and programmes is satisfactorily monitored (Art. 10)**

Technical studies are in progress.

Reporting Directive

Legal reference

Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment (OJ L 377 31.12.1991 p. 48) EUR-Lex hyperlink: [html](#)

A. Which parts of the provisions of the Directive have been transposed?

Technical studies on the directives included in the Annex of the Directive are in progress.

B. When is transposition foreseen for the remaining measures?

Evaluation will be done during the technical studies on the directives included in the Annex of the Directive are in progress.

C. What have been achieved as regards:

- **Measures in place to ensure adequate monitoring of the environment, and how is environmental data held by the public bodies organised and managed. To what extent is data stored electronically, and IT possibilities (such as Internet) exploited?**

Environmental data is gathered by the responsible institutions in the framework of their duties and responsibilities. These gathered raw data are mostly kept by the institutions which are producing data in electronic form.

There are some studies which were carried out in the past in order to gather the environmental information in databases, the most comprehensive of which is the Environmental Information System, which is one of the most important outputs of the Institutional Building and Access to Environmental Information Project (TR0203-03.4/1) financed under 2002 EU Pre-Accession Financial Assistance. An environmental inventory, based on participatory approach, has been designed on the air, waste, water and soil topics, included in the Environmental Information System. The environmental information gathered in the system can be accessed by the major partners. In addition, the environmental information system shall be internet-based and function with web interfaces, and also be used by the users (including public) within the scope of their authority.

Reports on Provincial State of the Environment have been prepared annually since 1993 and published as a book by the Ministry of Environment and Forestry and also published on the web in the electronic form since 2004.

Reports on National State of the Environment were prepared in the past and published as a book in 1996 and also published on the web pages of the Ministry of Environment and Forestry in 2004.

The Monitoring Strategy on Bio-diversity has been prepared recently. In this context, a database in compliance with the requirements of the habitat and bird directives is being developed. In addition, several related institutions have been carrying on monitoring studies regarding to the protected areas in accordance with the national legislation and the international conventions.

Turkish Statistical Institute (TURKSTAT) has been dealing with the environmental statistics since 1990. All the data on water, wastewater, waste, air quality, greenhouse gas emissions and environmental expenditures are stored electronically.

Database having an agricultural purpose has been established by the Ministry of Agriculture and Rural Affairs and disseminated via Internet.

- **Existence of projects/activities aiming at the development of a spatial data infrastructure, including the georeferencing of environmental data and harmonising spatial aspects of the data. If so, which are the competent authorities involved?**

One of the Environmental Information System Modules established by the Ministry of Environment and Forestry is the Geographical Information Systems (GIS), and environmental data will be kept as spatial data within the system.

Spatial data which are used during the preparation of territorial plans are stored in digital format by the Ministry of Environment and Forestry.

The studies on “Detailed Soil Maps”, “Rural Infrastructure Database”, “Database on multi-purpose digital land classification of Turkey using the CORINE Land-Cover”, “the Pasture Information System” were completed by the the Ministry of Agriculture and Rural Affairs.

The following projects are in the progress: “Project for Regional Development on the National Programme and The Reduction of Regional Development Disparities.”, ”Project for Development of Turkish Spatial Information Infrastructure”, “Project for Remote Sensing and Geographical Information Systems” by The Ministry of Public Works and Settlement.

- **Development of public geoportals for spatial (including environmental) data. If yes, please give relevant web addresses.**

There is an Environmental Information System (EIS) which has been established by the Ministry of Environment and Forestry and is used together with the institutions, producing data. EIA web address: <http://www.cevrebil.gov.tr>

Spatial environmental data prepared for the agricultural aims can be accessed from the following addresses: <http://www.khgm.gov.tr> and <http://www.tarim.gov.tr>. And also, Statistical Environmental Data can be accessed from that web address: <http://www.tuik.gov.tr>

The Ministry of Public Works and Settlements spatial data study can be reached on the following web address: <http://www.bayindirlik.gov.tr>

- **Do the public bodies make available spatial (including environmental) data to the public or other public authorities? If yes in which format (electronic? paper copies?). What are the specific conditions to have access to these data?**

Public institutions are carrying out their studies about environmental monitoring activities through the internet- based electronic database.

- **Current status of the monitoring programmes in various environmental media (e.g. air, inland and coastal waters, soil, land use and land cover)**

Air quality in city centers has been monitored since 1990.

CORINE map of classifying land is being prepared. The map will be published through the Internet database after completion.

- **Existence of an inventory of existing in-situ environmental monitoring facilities and programmes (in the various environmental media) in the country. If yes in which format (e.g. electronic web-based database?)**

Technical studies are in progress.

- **Existence of a database of legally mandated organisations responsible for the monitoring activities**

Air quality in city centers have been monitored since 1990, the database of air quality statistics is available on TURKSTAT webpage.

- **Organisation of the reporting of environmental data to the European Environmental Agency (For Turkey only):**

After joining the European Environmental Agency (EEA), Turkey appointed the Directorate General of Environmental Impact Assessment and Planning, as the National Focal Point of Turkey to the EEA. National coordination of the EEA activities in Turkey has been managed by the Ministry of Environment and Forestry.

The reporting obligations were uploaded through the Primary Contact Points (PCP) under the coordination of the Ministry of Environment and Forestry. Deliveries of the data and information should be made to the EEA Central Data Repository (CDR).

European Environment Agency Regulation

Legal reference

Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network (OJ L 120 11.05.1990 p. 1) EUR-Lex hyperlink: [html](#)

- **How is the reporting of environmental data to the European Environmental Agency organised?**

In the ongoing process of accession to the European Union, Turkey became a member of the European Environment Agency (EEA) in 2003, with the agreement between the European Community and the Republic of Turkey concerning the participation of the Republic of Turkey in the EEA and the European Environment Information and Observation Network (EIONET).

After joining the EEA, Turkey appointed the Directorate General of Environmental Impact Assessment and Planning, as the National Focal Point to the EEA. National coordination of the EEA activities in Turkey has been managed by Ministry of Environment and Forestry.

In April 2005, a new EIONET structure was adopted by the EEA Management Board, according to which the EEA has reduced the number of National Reference Centers (NRCs) from 54 to 24. Nationally Designated Areas Report (CDDA) was uploaded to the EIONET as first reporting from Turkey in 2005.

In 2006, the number of reporting obligations for Turkey is 7. In order to upload them before the deadline, the activities are ongoing.

The reporting obligations were uploaded through the Primary Contact Point under the coordination of the Ministry of Environment and Forestry. Deliveries of the data and information should be made to the EEA Central Data Repository (CDR).

AARHUS CONVENTION

A. Are you a Party to the Convention?

Turkey is not a party to the Aarhus Convention.

B. If you are not,

- **When do you plan to become a Party?**
- **What are the main difficulties in the ratification process?**

According to the Law on the Right of Access to Information entered into force in 2003, every Turkish natural and legal person as well as foreigners resident in Turkey and foreign legal persons carrying out activities in Turkey have the right to access to information.

Access to justice regarding environmental issues is also provided.

However, the practical implementation of some provisions of this Convention raises several difficulties in Turkey.

The Aarhus Convention is not limited to the UN-ECE region. Any member State of the United Nations may accede to the Convention upon approval by the Parties (Art. 19 para 3).

Turkey believes that the implementation of this Convention regarding individual environmental rights requires cooperation between the Parties. Due to the uncertainty in the region, cooperation between the neighbouring countries in this field would be difficult to be realized.

In this regard, we currently endeavour to prepare comprehensive analyses which would cover every aspect from various viewpoints of Turkish international relations in a regional framework.

Espoo Convention

A. Are you a Party to the Convention?

Turkey is not a party to the Espoo Convention.

B. If you are not,

- **When do you plan to become a Party?**
- **What are the main difficulties in the ratification process?**

The Espoo Convention envisages a notification process to the affected parties in case of a significant adverse transboundary impact (Article 3).

The decision at the Second Meeting of the Parties in Sofia in 2001 opened the Espoo Convention to all UN member States. Therefore, any member State of the UN may become a party to the Convention.

Turkey faces difficulties in implementation of this Convention since the stability, peace and security in the region are yet to be established. The Espoo Convention requires cooperation between the neighbouring countries in the region.